

**Remarks**

Reconsideration and allowance of the subject patent application are respectfully requested.

Applicant gratefully acknowledges the indication that claims 19-22, 25, 27, 29, 31-34, 37, 39, 41, 43 and 44 are allowed and that claims 28, 30, 40 and 42 contain allowable subject matter.

Claims 28, 30, 40 and 42 were rejected under 35 U.S.C. Section 112, second paragraph, as allegedly being indefinite.

Claims 28, 30, 40 and 42 have been amended to address the issues related to "modifications" identified in the office action. Based on these amendments, withdrawal of the Section 112, second paragraph, rejection is respectfully requested. These claims are now believed to be allowable in accordance with the indication in the office action.

Other amendments of a formal nature have been made to the claims.

Claims 23, 24, 26, 35, 36 and 38 were rejected under 35 U.S.C. Section 103(a) as allegedly being made "obvious" by Pogrebinsky et al. (U.S. Publication No. 2002/0101855) in view of Treadaway et al. (U.S. Patent No. 6,480,477), Ohlsson et al. (U.S. Patent No. 6,452,950) and Cloutier (U.S. Patent No. 5,966,387).

Applicant continues to believe that Pogrebinsky et al., Ohlsson et al. and Cloutier are deficient with respect to rejected claims 23, 24, 26, 35, 36 and 38 for the reasons set forth in the prior response, which reasons are incorporated herein in their entirety.

In particular, Cloutier describes that the output clock signal (OC) is changed if the detection processor 128 determines the presence of jitter. See, e.g., Cloutier, col. 13, lines 43-47. According to Cloutier, "[t]he detection processor 128 calculates the jitter based on the correlation of the expected arrival time  $X_n$  and the actual arrival time  $Y_n$ ." The actual arrival time is measured based on the detection of the PCR values in the received packets. This is not the same as, and is not suggestive of, modifying a clock based on increases/decreases in the number packets in a receiving buffer over time as claimed in claims 23, 24, 26, 35, 36 and 38.

To even more clearly differentiate the claims from the applied references, claims 23, 24, 26, 35, 36 and 38 have been amended to recite that "*when a result shows increase or decrease in the number of packets with time, the control means based on the result, and not based on the temporal information received with the packets, modifies a clock for data reproduction.*" This

language makes clear that the clock modification is made without reference to temporal information received with the packets. As noted above, in Cloutier, the clock modification is based at least in part on the PCR values (i.e., temporal information) in the received packets. Neither Cloutier nor any of the other references discloses or suggests the above-italicized feature of claims 23, 24, 26, 35, 36 and 38.

The office action references col. 18, lines 48-63 of Treadaway et al. in connection with, among other things, the claim 23 and 35 features of, "when the data in the buffer is used up," collecting data up to a level corresponding to a reference value before restarting data reproduction. First, the referenced col. 18 disclosure relates to transmitting, rather than the claimed receiving. Second, in connection with the description of the receive buffer at col. 20, line 42 et seq., Treadaway et al. notes that "this aspect of the present invention prevents the receive buffer from being emptied ..." (emphasis added). Consequently, Treadaway et al. cannot be fairly said to describe what happens when data in the buffer is used up since this situation is prevented in Treadaway et al.

With respect to claims 24 and 36, the office action maintains with reference to col. 6, line 37 to col. 7, line 44 that Ohlsson et al. describes "discarding packets when data in a buffer exceeds a size." However, while this portion of Ohlsson et al. mentions that "[p]ackets are discarded when the size of the jitter buffer is decreased", there is no disclosure of discarding a "fixed amount" of data when the buffer size is exceeded. Instead, Ohlsson et al. suggests that because of the smaller buffer size, more packets are discarded.

NAKABAYASHI, J.  
Serial No. 10/031,200  
Response to Office Action dated September 6, 2007

The pending claims are believed to be allowable and favorable office action is respectfully requested.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:

A handwritten signature in cursive script, appearing to read "Michael J. Shea", is written over a horizontal line.

Michael J. Shea

Reg. No. 34,725

MJS:mjs

901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100